

112TH CONGRESS
2D SESSION

S. _____

To establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Better
5 Health Rewards Program Act of 2012”.

6 **SEC. 2. MEDICARE BETTER HEALTH REWARDS PROGRAM.**

7 (a) IN GENERAL.—Part B of title XVIII of the Social
8 Security Act (42 U.S.C. 1395j et seq.) is amended by add-
9 ing at the end the following new section:

1 “MEDICARE BETTER HEALTH REWARDS PROGRAM

2 “SEC. 1849. (a) IN GENERAL.—The Secretary shall
3 establish a Better Health Rewards Program (in this sec-
4 tion referred to as the ‘Program’) under which incentives
5 are provided to Medicare beneficiaries who voluntarily
6 agree to participate in the Program.

7 “(b) ENROLLMENT.—A health professional partici-
8 pating in the Program shall provide their patients who are
9 Medicare beneficiaries with a description of and an oppor-
10 tunity to enroll in the Program on a voluntary basis. If
11 a Medicare beneficiary elects to enroll in the Program, the
12 health professional shall inform the Secretary of the indi-
13 vidual’s enrollment through a process established by the
14 Secretary, which does not impose additional administra-
15 tive requirements on the participating health professional.

16 “(c) ESTABLISHMENT OF BETTER HEALTH TARGET
17 STANDARDS.—

18 “(1) IN GENERAL.—

19 “(A) ESTABLISHMENT.—The Secretary
20 shall establish standards for measuring better
21 health targets and points for achieving such
22 standards for participating Medicare bene-
23 ficiaries, including such standards and points
24 with respect to the following:

25 “(i) Annual wellness visit.

1 “(ii) Tobacco cessation.

2 “(iii) Body Mass Index (BMI).

3 “(iv) Diabetes screening test.

4 “(v) Cardiovascular disease screening.

5 “(vi) Cholesterol level screening.

6 “(vii) Screening tests and specified
7 vaccinations.

8 “(B) CONSULTATION.—In establishing
9 standards and points for achieving such stand-
10 ards under this subsection, the Secretary—

11 “(i) shall consult with 1 or more na-
12 tionally recognized health care quality or-
13 ganizations, as determined appropriate by
14 the Secretary; and

15 “(ii) may consult with physicians and
16 other professionals experienced with
17 wellness programs.

18 “(C) POINTS.—The number of points
19 awarded for a year for achieving standards with
20 respect to each of the targets described in
21 clauses (i) through (vii) of subparagraph (A)
22 shall not exceed 5. Such points may be awarded
23 on a sliding scale, based on standards estab-
24 lished under this subsection, as determined ap-
25 propriate by the Secretary.

1 “(I) reduce spending under this
2 title without reducing the quality of
3 care; or

4 “(II) improve the quality of care
5 and reduce spending;

6 “(ii) the Chief Actuary of the Centers
7 for Medicare & Medicaid Services certifies
8 that such expansion would reduce program
9 spending under this title; and

10 “(iii) the Secretary determines that
11 such expansion would not deny or limit the
12 coverage or provision of benefits under this
13 title for individuals.

14 “(2) COLLECTION AND USE OF BASELINE
15 DATA.—During the first year of the Program, a
16 health professional shall establish and report to the
17 Secretary baseline information for each participating
18 Medicare beneficiary who is a patient of the health
19 professional as part of that beneficiary’s first year
20 assessment under paragraph (3)(A). The health pro-
21 fessional shall use such data to aid in the determina-
22 tion of whether and to what extent the participating
23 Medicare beneficiary is meeting the target standards
24 under subsection (c) in each of years 2 and 3 of the
25 Program.

1 “(3) REQUIRED ASSESSMENTS FOR PARTICI-
2 PATING MEDICARE BENEFICIARIES.—

3 “(A) FIRST YEAR.—During year 1 of the
4 Program, a health professional shall furnish to
5 each participating Medicare beneficiary that is
6 a patient of the health professional either an
7 annual wellness visit or an initial preventive
8 physical examination.

9 “(B) SECOND AND THIRD YEARS.—During
10 each of years 2 and 3 of the Program, a health
11 professional shall furnish to each participating
12 Medicare beneficiary that is a patient of the
13 health professional an annual wellness visit to
14 determine whether and to what extent the par-
15 ticipating Medicare beneficiary has met the tar-
16 get standards under subsection (c).

17 “(e) DETERMINATION OF POINTS AND PAYMENT OF
18 INCENTIVES.—

19 “(1) DETERMINATION OF POINTS.—During
20 each of years 2 and 3 of the Program, a health pro-
21 fessional shall—

22 “(A) evaluate and report to the Secretary
23 whether each participating Medicare beneficiary
24 that is a patient of the health professional has

1 achieved the target standards under subsection
2 (c); and

3 “(B) determine the total amount of points
4 that each such participating Medicare bene-
5 ficiary has achieved for the year based on the
6 points assigned for achieving such standards
7 under subsection (c).

8 “(2) INCENTIVE PAYMENT.—

9 “(A) IN GENERAL.—The Secretary shall
10 pay to each participating Medicare beneficiary
11 who achieves at least 20 points under para-
12 graph (1)(B) for the year an incentive payment
13 as follows:

“Points	Year 2 Payment Amount	Year 3 or a Subsequent Year Payment Amount
20-24 Points	\$100	\$200
25-30 Points	\$200	\$400

14 “(B) INFLATION ADJUSTMENT.—The dol-
15 lar amounts specified in this paragraph shall be
16 increased, beginning with 2016, from year to
17 year based on the percentage increase in the
18 consumer price index for all urban consumers
19 (all items; United States city average), rounded
20 to the nearest \$1.

21 “(3) FINAL DETERMINATION OF STANDARDS
22 ACHIEVEMENT MADE BY PARTICIPATING HEALTH

1 PROFESSIONAL.—Under the Program, a partici-
2 pating health professional shall make the final deter-
3 mination as to whether or not a participating Medi-
4 care beneficiary has met the target standards under
5 subsection (c) and what screening tests and specified
6 vaccinations, or other services, are necessary for
7 purposes of making such determination.

8 “(f) SPENDING BENCHMARKS.—

9 “(1) IN GENERAL.—The Secretary shall collect
10 relevant data, including data on claims paid under
11 this title for services furnished to participating
12 Medicare beneficiaries during the Program, for pur-
13 poses of determining the aggregate estimated sav-
14 ings achieved under this title for participating Medi-
15 care beneficiaries during each of years 2 and 3 of
16 the Program in accordance with paragraph (2) (and
17 for a subsequent year if the Program is expanded
18 under subsection (d)(1)(B)).

19 “(2) DETERMINATION OF AGGREGATE ESTI-
20 MATED SAVINGS.—

21 “(A) IN GENERAL.—The amount of the
22 aggregate estimated savings under this title for
23 participating Medicare beneficiaries under para-
24 graph (1), with respect to a year, shall be equal
25 to—

1 “(i) the estimated savings determined
2 under subparagraph (B) for the year;
3 minus

4 “(ii) the aggregate incentive payments
5 made under the Program during the year.

6 “(B) DETERMINATION OF ESTIMATED SAV-
7 INGS.—For purposes of subparagraph (A)(i),
8 the estimated savings determined under this
9 subparagraph for a year shall be equal to—

10 “(i) the estimated aggregate expendi-
11 tures under this title (as projected under
12 subparagraph (C)) for the year; minus

13 “(ii) the actual aggregate expendi-
14 tures under this title (as determined by the
15 Secretary and taking into account any re-
16 duction in specific health risks of the par-
17 ticipating Medicare beneficiaries) for the
18 year.

19 “(C) PROJECTION OF ESTIMATED AGGRE-
20 GATE CLAIMS COST.—

21 “(i) BENCHMARK BASE YEAR.—The
22 Secretary shall establish a benchmark base
23 year amount of expenditures under this
24 title for participating Medicare bene-
25 ficiaries during year 1 of the Program.

1 “(ii) PROJECTION.—The Secretary
2 shall use the benchmark base year amount
3 established under clause (i) to project the
4 estimated aggregate expenditures for all
5 participating Medicare beneficiaries during
6 each of years 2 and 3 of the Program as
7 if the beneficiaries were not participating
8 in the Program. In making such projec-
9 tion, the Secretary may include adjust-
10 ments for health status or other specific
11 risk factors and geographic variation for
12 the participating Medicare beneficiaries.

13 “(D) PUBLIC REPORT OF DETERMINA-
14 TION.—Not later than 90 days after deter-
15 mining the aggregate estimated savings (if any)
16 under subparagraph (A) with respect to a year,
17 the Secretary shall make available to the public
18 a report containing a description of the amount
19 of the savings determined, including the meth-
20 odology and any other calculations or deter-
21 minations involved in the determination of such
22 amount. Such report shall include a description
23 of any reduction in specific health risks of par-
24 ticipating Medicare beneficiaries identified by
25 the Secretary, together with recommendations

1 for such legislation and administrative action as
2 the Secretary determines appropriate

3 “(3) ADDITIONAL FUNDING IF AGGREGATE IN-
4 CENTIVE PAYMENTS EXCEED ESTIMATED SAV-
5 INGS.—If, for a year during the Program, the aggre-
6 gate incentive payments made during the year ex-
7 ceed the estimated savings determined under para-
8 graph (2)(B) for the year, the Secretary shall pro-
9 vide for the transfer, from the Prevention and Public
10 Health Fund established under section 4002 of the
11 Patient Protection and Affordable Care Act, of an
12 amount equal to the amount of such excess, to the
13 Federal Supplementary Medical Insurance Trust
14 Fund under section 1841.

15 “(g) WAIVER AUTHORITY.—The Secretary may
16 waive such requirements of titles XI and XVIII as may
17 be necessary to carry out the purposes of the Program
18 established under this section.

19 “(h) DEFINITIONS.—In this section:

20 “(1) ANNUAL WELLNESS VISIT.—The term ‘an-
21 nual wellness visit’ includes personalized prevention
22 plan services (as defined in section 1861(hhh)(1)).

23 “(2) HEALTH PROFESSIONAL.—The term
24 ‘health professional’ includes a physician (as defined

1 in section 1861(r)(1)) and a practitioner described
2 in clause (i) of section 1842(b)(18)(C).

3 “(3) INITIAL PREVENTIVE PHYSICAL EXAMINA-
4 TION.—The term ‘initial preventive physical exam-
5 ination’ has the meaning given that term in section
6 1861(ww)(1).

7 “(4) MEDICARE BENEFICIARY.—The term
8 ‘Medicare beneficiary’ means an individual enrolled
9 in part B.

10 “(5) PARTICIPATING MEDICARE BENE-
11 FICIARY.—The term ‘participating Medicare bene-
12 ficiary’ means a Medicare beneficiary who enrolls in
13 the Program under subsection (b).

14 “(6) SCREENING TESTS.—The term ‘screening
15 tests’ means any of the following that are deter-
16 mined by a health professional to be appropriate for
17 a participating Medicare beneficiary:

18 “(A) Colorectal cancer screening tests (as
19 defined in section 1861(pp)).

20 “(B) Screening mammography (as de-
21 scribed in section 1861(jj)).

22 “(C) Screening pap smear and screening
23 pelvic exam (as defined in section 1861(nn)).

24 “(D) Screening for glaucoma (as defined
25 in section 1861(uu)).

1 “(E) Bone mass measurement (as defined
2 in section 1861(rr)) for qualified individuals de-
3 scribed in paragraph (2)(A) of such section.

4 “(F) HIV Screening for high risk groups
5 (as identified by the Secretary).

6 “(7) SPECIFIED VACCINATIONS.—The term
7 ‘specified vaccinations’ means the vaccinations de-
8 scribed in section 1861(ww)(1) that are determined
9 by a health professional to be appropriate for a par-
10 ticipating Medicare beneficiary.”.

11 (b) CONFORMING AMENDMENT.—Section 4002(c) of
12 the Patient Protection and Affordable Care Act (Public
13 Law 111–148) is amended by inserting “and shall transfer
14 amounts in the Fund to the Federal Supplementary Med-
15 ical Insurance Trust Fund under section 1841 of the So-
16 cial Security Act in accordance with section 1849(f)(3) of
17 such Act” before the period at the end.

18 **SEC. 3. PARTICIPATION BY MEDICARE ADVANTAGE PLANS.**

19 Section 1859 of the Social Security Act (42 U.S.C.
20 1395w–28) is amended by adding at the end the following
21 new subsection:

22 “(h) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
23 TICIPATION IN A BETTER HEALTH REWARDS PRO-
24 GRAM.—

1 “(1) IN GENERAL.—Effective for plan years be-
2 ginning on or after the date of enactment of the
3 Medicare Better Health Rewards Program Act of
4 2012, a Medicare Advantage organization may pro-
5 vide to individuals enrolled in an MA plan offered by
6 the organization incentive payments, including cash,
7 cash-equivalent, or other types of incentives, for vol-
8 untary participation in a Better Health Rewards
9 Program (in this subsection referred to as the ‘Pro-
10 gram’) that rewards individuals for meeting certain
11 health targets established by the Secretary.

12 “(2) LIMITATION.—In no case shall the month-
13 ly bid amount submitted by a Medicare Advantage
14 organization under section 1834(a)(6) (or the
15 monthly premium charged by the organization under
16 section 1854(b)) with respect to an MA plan offered
17 by the organization take into account any incentive
18 payments made to enrollees under the Program.

19 “(3) IMPLEMENTATION.—The Program under
20 this subsection shall be conducted in a similar man-
21 ner to the manner in which the program under sec-
22 tion 1849 is conducted, in accordance with stand-
23 ards established by the Secretary.

1 “(4) NOTIFICATION AND PROVISION OF INFOR-
2 MATION.—A Medicare Advantage organization seek-
3 ing to participate in the Program shall—

4 “(A) notify the Secretary of the organiza-
5 tion’s intent to participate in the Program; and

6 “(B) agree to provide to the Secretary—

7 “(i) information regarding—

8 “(I) which enrollees participate
9 in the Program;

10 “(II) the scores of those enrollees
11 with respect to applicable health tar-
12 gets under the Program; and

13 “(III) the incentives enrollees re-
14 ceive for meeting such health targets;
15 and

16 “(ii) any other information specified
17 by the Secretary for purposes of this sub-
18 section.

19 “(5) WAIVER AUTHORITY.—The Secretary may
20 waive such requirements of titles XI and XVIII as
21 may be necessary to carry out the purposes of the
22 Program established under this subsection.”.

1 **SEC. 4. PARTICIPATION OF SECTION 1876 COST PLANS.**

2 Section 1876 of the Social Security Act (42 U.S.C.
3 1395mm) is amended by inserting at the end the fol-
4 lowing:

5 “(1) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
6 TICIPATION IN A BETTER HEALTH REWARDS PRO-
7 GRAM.—

8 “(1) IN GENERAL.—Effective for contract peri-
9 ods beginning on or after the date of enactment of
10 the Medicare Better Health Rewards Program Act
11 of 2012, an eligible organization may provide to
12 members enrolled under this section with the organi-
13 zation incentive payments, including cash, cash-
14 equivalent, or other types of incentives, for voluntary
15 participation in a Better Health Rewards Program
16 (in this subsection referred to as the ‘Program’) that
17 rewards members for meeting certain health targets
18 established by the Secretary.

19 “(2) LIMITATION.—In no case shall the pay-
20 ment to an eligible organization under this section
21 (or the premium rate charged by the organization
22 under this section) with respect to members enrolled
23 with the organization take into account any incentive
24 payments made to members under the Program.

25 “(3) IMPLEMENTATION.—The Program under
26 this subsection shall be conducted in a similar man-

1 ner to the manner in which the program under sec-
2 tion 1849 is conducted, in accordance with stand-
3 ards established by the Secretary.

4 “(4) NOTIFICATION AND PROVISION OF INFOR-
5 MATION.—An eligible organization seeking to partici-
6 pate in the Program shall—

7 “(A) notify the Secretary of the organiza-
8 tion’s intent to participate in the Program; and

9 “(B) agree to provide to the Secretary—

10 “(i) information regarding—

11 “(I) which members participate
12 in the Program;

13 “(II) the scores of those members
14 with respect to applicable health tar-
15 gets under the Program; and

16 “(III) the incentives members re-
17 ceive for meeting such health targets;
18 and

19 “(ii) any other information specified
20 by the Secretary for purposes of this sub-
21 section.

22 “(5) WAIVER AUTHORITY.—The Secretary may
23 waive such requirements of titles XI and XVIII as
24 may be necessary to carry out the purposes of the
25 Program established under this subsection.”.

1 **SEC. 5. PARTICIPATION OF PROGRAMS OF ALL-INCLUSIVE**
2 **CARE FOR THE ELDERLY (PACE).**

3 (a) **MEDICARE.**—Section 1894 of the Social Security
4 Act (42 U.S.C. 1395eee) is amended by inserting at the
5 end the following:

6 “(j) **PROVIDING INCENTIVES FOR VOLUNTARY PAR-**
7 **TICIPATION IN A BETTER HEALTH REWARDS PRO-**
8 **GRAM.**—

9 “(1) **IN GENERAL.**—Effective for PACE pro-
10 gram agreements entered into on or after the date
11 of enactment of the Medicare Better Health Re-
12 wards Program Act of 2012, a PACE provider may
13 provide to PACE program eligible individuals en-
14 rolled under this section with the PACE provider in-
15 centive payments, including cash, cash-equivalent, or
16 other types of incentives, for voluntary participation
17 in a Better Health Rewards Program (in this sub-
18 section referred to as the ‘Program’) that rewards
19 enrollees for meeting certain health targets estab-
20 lished by the Secretary.

21 “(2) **LIMITATION.**—In no case shall the pay-
22 ment to a PACE provider under this section (or any
23 premium charged by the provider under this section)
24 with respect to PACE program eligible individuals
25 enrolled with the PACE provider take into account

1 any incentive payments made to individuals under
2 the Program.

3 “(3) IMPLEMENTATION.—The Program under
4 this subsection shall be conducted in a similar man-
5 ner to the manner in which the program under sec-
6 tion 1849 is conducted, in accordance with stand-
7 ards established by the Secretary.

8 “(4) NOTIFICATION AND PROVISION OF INFOR-
9 MATION.—A PACE provider seeking to participate
10 in the Program shall—

11 “(A) notify the Secretary of the PACE
12 provider’s intent to participate in the Program;
13 and

14 “(B) agree to provide to the Secretary—

15 “(i) information regarding—

16 “(I) which PACE program eligi-
17 ble individuals enrolled with the
18 PACE provider participate in the Pro-
19 gram;

20 “(II) the scores of those individ-
21 uals with respect to applicable health
22 targets under the Program; and

23 “(III) the incentives individuals
24 receive for meeting such health tar-
25 gets; and

1 “(ii) any other information specified
2 by the Secretary for purposes of this sub-
3 section.

4 “(5) WAIVER AUTHORITY.—The Secretary may
5 waive such requirements of titles XI, XVIII, and
6 XIX as may be necessary to carry out the purposes
7 of the Program established under this subsection.”.

8 (b) MEDICAID.—Section 1934 of the Social Security
9 Act (42 U.S.C. 1396u–4) is amended by adding at the
10 end the following new subsection:

11 “(k) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
12 TICIPATION IN A BETTER HEALTH REWARDS PRO-
13 GRAM.—

14 “(1) IN GENERAL.—Effective for PACE pro-
15 gram agreements entered into on or after the date
16 of enactment of the Medicare Better Health Re-
17 wards Program Act of 2012, a PACE provider may
18 provide to PACE program eligible individuals en-
19 rolled under this section with the PACE provider in-
20 centive payments, including cash, cash-equivalent, or
21 other types of incentives, for voluntary participation
22 in a Better Health Rewards Program (in this sub-
23 section referred to as the ‘Program’) that rewards
24 enrollees for meeting certain health targets estab-
25 lished by the Secretary.

1 “(2) LIMITATION.—In no case shall the pay-
2 ment to a PACE provider under this section (or any
3 premium charged by the provider under this section)
4 with respect to PACE program eligible individuals
5 enrolled with the PACE provider take into account
6 any incentive payments made to individuals under
7 the Program.

8 “(3) IMPLEMENTATION.—The Program under
9 this subsection shall be conducted in a similar man-
10 ner to the manner in which the program under sec-
11 tion 1849 is conducted, in accordance with stand-
12 ards established by the Secretary.

13 “(4) NOTIFICATION AND PROVISION OF INFOR-
14 MATION.—A PACE provider seeking to participate
15 in the Program shall—

16 “(A) notify the Secretary of the PACE
17 provider’s intent to participate in the Program;
18 and

19 “(B) agree to provide to the Secretary—

20 “(i) information regarding—

21 “(I) which PACE program eligi-
22 ble individuals enrolled with the
23 PACE provider participate in the Pro-
24 gram;

1 “(II) the scores of those individ-
2 uals with respect to applicable health
3 targets under the Program; and

4 “(III) the incentives individuals
5 receive for meeting such health tar-
6 gets; and

7 “(ii) any other information specified
8 by the Secretary for purposes of this sub-
9 section.

10 “(5) WAIVER AUTHORITY.—The Secretary may
11 waive such requirements of titles XI, XVIII, and
12 XIX as may be necessary to carry out the purposes
13 of the Program established under this subsection.”.

14 **SEC. 6. EXCLUSION OF INCENTIVE PAYMENTS.**

15 (a) IN GENERAL.—Part III of subchapter B of chap-
16 ter 1 of the Internal Revenue Code of 1986 is amended
17 by inserting after section 139D the following new section:

18 **“SEC. 139E. MEDICARE BETTER HEALTH REWARDS PAY-
19 MENTS.**

20 “Gross income shall not include any payment made
21 under the following programs:

22 “(1) The Medicare Better Health Rewards Pro-
23 gram established under section 1849 of the Social
24 Security Act.

1 “(2) A Better Health Rewards Program estab-
2 lished pursuant to section 1859(h), 1876(l), 1894(j),
3 or 1934(k) of the Social Security Act.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part III of subchapter B of chapter 1 of such Code
6 is amended by inserting after the item relating to section
7 139D the following new item:

“Sec. 139E. Medicare Better Health Rewards payments.”.